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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

RAYMOND LONG, M.D., and BANDHA YOGA PUBLICATIONS, LLC, Plaintiff, v. TAMMY DORSET and JOHN DOES 1 - 10. Defendants.	Case No. COMPLAINT FOR COPYRIGHT INFRINGEMENT, STATUTORY AND COMMON LAW TORTS, AIDING AND ABETTING and DEMAND FOR JURY TRIAL

Plaintiffs RAYMOND LONG, M.D., ("Dr. Long") and BANDHA YOGA PUBLICATIONS, LLC ("BANDHA LLC" and collectively with Dr. Long "Plaintiffs") by and through their attorneys, Folkenflik and McGerity LLP and Libenson Law, for their Complaint against Defendants TAMMY DORSET and JOHN DOE 1 through JOHN DOE 10 (the collectively the "Dorset Defendants"), allege as follows:

JURISDICTION

1. This Court has original jurisdiction pursuant to 28 U.S.C. § 1338(a) and 28 U.S.C. § 1332, and supplemental jurisdiction pursuant to 28 U.S.C. § 1367, as well as pendant jurisdiction over claims based on state law.

2. This Court has personal jurisdiction over the Dorset Defendants based on the criminal acts they engaged in. Those acts were directed at this District and caused injury in this District. On information and belief, Defendant TAMMY DORSET and the other Dorset Defendants, either individually or through their agent Defendant TAMMY DORSET, agreed to the Facebook Terms of Services and to jurisdiction in this District. Additionally, the Dorset Defendants' conduct caused injury to Plaintiffs and their intellectual property within the State of California.

VENUE

3. Venue is proper in this District pursuant to 28 U.S.C. 1391(c) and 1400(a), in that Defendants are subject to personal jurisdiction in this District.

INTRADISTRICT ASSIGNMENT

4. Pursuant to Civil L.R. 3-2(c), this matter is an Intellectual Property Action and is subject to district wide assignment, notwithstanding a substantial part of the events giving rise to the cause of the action occurred in Alameda County and the City and County of San Francisco, which makes Oakland and/or San Francisco the proper assignment pursuant to Civil L.R. 3-2(d).

INTRODUCTION

5. This is a civil action seeking damages against the Dorset Defendants for violations of the Copyright Act, 17 U.S.C. § 101 *et seq*., the Computer Fraud and Abuse Act ("CFAA"), 18 U.S.C. § 1030 *et seq*, the Stored Communications Act ("SCA"), 18 U.S.C. § 2701 *et seq*, the Comprehensive

Computer Data Access and Fraud Act ("CCDAFA"), Cal. Penal Code § 502, the common law claims of tortious interference with contractual advantage, tortious interference with prospective advantage, conversion, and aiding and abetting other Dorset Defendants' statutory violations and common law torts.

6. Plaintiff Dr. Long is an internationally renowned expert on yoga, in particular the anatomic purposes and effects of yoga poses. He is one of the bestselling authors of yoga books, a frequent author of articles for yoga publications, a producer of video training materials, and a frequent lecturer on yoga topics. For more than 20 years, Dr. Long has developed his expertise and reputation. Dr. Long owns the copyrights to the internationally known brand Bandha Yoga and directly, or through Bandha LLC, holds exclusive rights to its related publications, including books (in print and e-books), articles, pamphlets, videos, pictures, animations, and other interactive media. Dr. Long has a carefully designed and curated internet presence that assists him in the marketing of his intellectual property. His blog, Daily Bandha, had over 5 million unique visitors over the last 5 years, and it currently has 300,000 to 400,000 views per month. His YouTube videos have been viewed approximately 250,000 times. In the relevant time period, Dr. Long had approximately 400,000 followers on Facebook.

7. Among the Plaintiffs' copyrighted intellectual property are anatomical drawings illustrating the muscular/skeletal effect of various yoga poses, referred to as the "Scientific Keys to unlock the practice of Yoga" (the "Scientific Keys Illustrations"). These drawings are produced through trade secret means to ensure anatomical accuracy generally unobtainable through other means. As a result, the images are unique, highly recognizable, sought after, and readily identified as the product of Dr. Long and his businesses. Dr. Long carefully manages the use of the Scientific Keys Illustrations to maximize their value for marketing his revenue producing businesses.

8. As the owner of the copyrights in Bandha Yoga, Plaintiff possesses the exclusive right to reproduce such copyrighted works in digital or print formats, to distribute such copyrighted works to the public by means of digital or other transmission, and to license such rights over the internet.

9. As part of the Plaintiffs' marketing plan, they established a business page on Facebook called "Bandha Yoga-The Scientific Keys" (the "Bandha Yoga Page"). Although the establishment of a business page is free, Plaintiffs paid tens of thousands of dollars to advertise the Bandha Yoga Page.

10. The Dorset Defendants' are computer hackers operating through fictitious addresses in or around Croatia and/or Albania. Their criminal acts were accomplished by their unlawful hijacking and unlawful control of the Bandha Yoga Page. The Dorset Defendants used that control to engage in the intentional, repeated, and unlawful misuse of the Plaintiffs' copyright protected intellectual property, in particular the Scientific Keys Illustrations. Each of the Dorset Defendants acted as a primary violator of the statutes in question and a primary tortfeasor in committing the torts in question, or, alternatively, acted in agreement and conspiracy with the primary violators and/or tortfeasors.

11. During the time period in question, the Weekly Total Reach of the Bandha Yoga Page was in excess of 3,500,000 separate individuals. Each separate individual seeing an individual infringing image or text is a separate instance of infringement. As a result, there were 3.5 million or more incidents of unlawful infringement of Plaintiffs' copyrighted intellectual property. The misused intellectual property was used as "clickbate" to entice users to click on those images. When visitors to the Bandha Yoga Page clicked on the image, they were taken to a page that surreptitiously downloaded a malicious virus that was destructive to their computer. In the event that the visitors had adequate anti-viral protection on their computer, upon clicking on the image they were greeted with a message warning them that the page they wished to visit was unsafe, making it appear that pages associated with

Bandha Yoga were unsafe to visit.

12. When a user's virus protection program blocks a computer virus, an alert pops up informing the user that the site is seeking to download a virus. As a result, both users who are infected with a virus and those who avoid infection because of a virus protection program will avoid visiting that site in the future. On information and belief, the Dorset Defendants were aware of that potential impact, and their unlawful acts were designed with that purpose and had the effect of injuring the world-wide businesses of Plaintiffs, in particular Plaintiffs' reputation and potential future relationships with those visitors to the Bandha Yoga Page who were exposed to malicious software. In the alternative, the Dorset Defendants acted in willful and reckless disregard of the injury to the Plaintiffs caused by their unlawful and tortious conduct.

THE PARTIES

13. Dr. Long is a board certified orthopedic surgeon as well as one of the world's leading experts in the practice of yoga. He is a world-renowned author, lecturer, and blogger on the subject of yoga, particularly on the anatomical effects of various yoga poses. Illustrations prepared for him using trade secret processes are unique, identifiable to Plaintiffs, copyrighted, and recognized as authoritative throughout the world. Dr. Long resides in Columbus, Muscogee County, Georgia.

14. Bhanda LLC is a New York limited liability company, with its principal place of business in Baldwinsville, New York.

15. Upon information and belief, Defendant TAMMY DORSET is a fictitious name of an individual who's current residence is unknown.

16. Plaintiffs claims against John Does 1-10 under their fictitious names because their true names and capacities are presently unknown to them whether individual, corporate, associate or

otherwise of Defendants and/or Defendants' other agents, employees and employers. Plaintiffs shall amend this Complaint to allege their true names and capacities when they are ascertained. Plaintiffs are informed and believe and thereon allege that each of the fictitiously named Doe Defendants are responsible in some manner for the occurrences herein alleged and further allege that Plaintiffs' damages were caused in whole or in part by some or all of the Doe Defendants.

17. Plaintiffs are informed and believe and thereon allege, that in performing the acts that give rise to this Complaint each of the Defendants named herein was the agent, employee, employer, manager, principal or controlling entity of the other Defendants, and in doing the things hereinafter alleged, were acting within the course and scope of such relationship with the actual or ostensible authority of their respective employers, principals, managers or controlling entities. Plaintiffs further allege that each of the Defendants named herein authorized, consented to and ratified all of the alleged conduct, acts and omissions by the remaining Defendants with both actual and constructive knowledge of said conduct. Each such Defendant in some manner is responsible, in whole or in part, for the events and happenings referred to herein in acting jointly and/or severally and caused, in whole or in part, the damages to Plaintiffs.

FACTS RELEVANT TO ALL CLAIMS

FACEBOOK'S TERMS OF SERVICE

18. Facebook refers to terms under which it provides its services to each and every member and user as the Statement of Rights and Responsibilities or the Terms of Services (hereinafter the "Statement," or "Terms of Services"). The Terms of Services specifically provides that users will not "upload viruses or other malicious code" (Statement, ¶3.4), "access an account belonging to someone else" (Statement, ¶3.4), "use Facebook to do anything unlawful, misleading, malicious, or

discriminatory" (Statement ¶3.9), "provide any false personal information on Facebook, or create an account for anyone other than yourself without permission" (Statement, ¶4.1), or "post content or take any action on Facebook that infringes or violates someone else's rights or otherwise violates the law" (Statement, ¶5.1). Tammy Dorset and possibly others of the Dorset Defendants were Facebook users and agreed to the Terms of Services set forth above. As users of Facebook, Plaintiffs are intended and incidental beneficiaries of the contract between Facebook and Tammy Dorset and other Dorset Defendants who are Facebook users.

THE CRIMES OF THE DORSET DEFENDANTS

19. On or about May 24, 2015, Dr. Long's Facebook Bandha Yoga Page was usurped by an unauthorized user going by the pseudonym "Tammy Dorset." Tammy Dorset hacked the page and changed the administrative passwords, preventing Dr. Long and his employees from accessing and controlling the page. Tammy Dorset had created her/his personal Facebook page and established herself/himself as the administrator of the Bandha Yoga Page. On information and belief, those actions were taken by Tammy Dorset in conspiracy with Defendants John Doe 1 through John Doe 10. The John Doe Defendants were acting through different internet addresses at different times, and in some cases apparently from different locations. Those differences suggest that there was more than one individual and together they were part of a group acting to violate Dr. Long's intellectual property rights and cause injury to Dr. Long.

20. During the eight day window in which Dr. Long was locked out of his Facebook page, over 3.5 million existing and/or prospective customers of Dr. Long and Bandha LLC who accessed the improperly posted infringing materials were exposed to viruses and malicious programming inserted by the hacker, causing significant harm to the Plaintiffs' customer base and severely undermining

Plaintiffs' relationships with their existing and prospective customers.

21. Dr. Long's copyrighted materials were infringed in excess of 3.5 million times.

AS AND FOR A FIRST CAUSE OF ACTION
(Copyright Infringement)

22. Plaintiffs repeat and re-allege each and every allegation in the prior paragraphs with the same force and effect as if fully alleged herein.

23. Defendants have infringed Dr. Long's copyrights in the Bandha Yoga materials by reproducing and distributing the copyrighted works without authorization, in violation of the Copyright Act, 17 U.S.C. §§ 106 and 501.

24. Defendants' acts of infringement were willful and in disregard of and/or with indifference to Plaintiffs' rights.

25. As a direct and proximate result of Defendants' infringements, Plaintiffs are entitled to damages in an amount to be proven at trial, but no less than $15 million, and to Defendants' profits in amounts to be proven at trial that are not currently ascertainable. Alternatively, because the infringements by the Dorset Defendants were willful, continued infringement, Plaintiffs are entitled to the maximum statutory damages of $150,000 for each copyright infringed, or in such other amount as may be proper under 17 U.S.C. § 504(c), in an amount to be proven at trial, but no less than $15 million.

26. Plaintiffs are further entitled to their attorney's fees and full costs pursuant to 17 U.S.C. §505.

AS AND FOR A SECOND CAUSE OF ACTION
(Contributory Copyright Infringement)

27. Plaintiffs repeat and re-allege each and every allegation in the prior paragraphs with the same force and effect as if fully alleged herein.

28. On information and belief, because the Bandha Yoga Page was hacked and taken over, an unauthorized user or users were disseminating Plaintiffs' copyrighted material tainted with the hacker's malware. Millions of users were exposed to infringing content and exposed to the hacker's malware.

29. The aforementioned activities by the Dorset Defendants constitutes infringement of Dr. Long's copyrights in the Bandha Yoga materials, including Dr. Long's exclusive rights of reproduction, adaptation, and distribution by means of digital distribution through Facebook, 17 U.S.C. §§ 106 and 501.

30. The Dorset Defendants each have, with knowledge, materially contributed to unauthorized reproductions, adaptations, and distribution of the copyrighted works by unauthorized users. The Dorset Defendants each have contributed to or caused the infringement of Plaintiffs' copyrights.

31. All Defendants' acts of infringement were willful, in disregard of and with indifference to, the rights of Plaintiffs.

32. As a direct and proximate result of the infringements by Defendants, Plaintiffs are entitled to damages in an amount to be proven at trial, but no less than $15 million, and to Defendants' profits in amounts to be proven at trial that are not currently ascertainable. Alternatively, because the infringements by the Dorset Defendants were willful, Plaintiffs are entitled to maximum statutory damages of $150,000 for each copyright infringed, or in such other amount as may be proper under 17 U.S.C. 504(c), in an amount to be proven at trial, but no less than $15 million.

33. Plaintiffs are further entitled to its attorney's fees and full costs pursuant to 17 U.S.C. § 505.

AS AND FOR A THIRD CAUSE OF ACTION
(Vicarious Copyright Infringement)

34. Plaintiffs repeat and re-allege each and every allegation in the prior paragraphs with the same force and effect as if fully alleged herein.

35. Tammy Dorset and other Dorset Defendants have infringed Plaintiffs' copyrights in the Bandha Yoga materials, including reproduction, adaptation, and distribution of such infringing materials.

36. On information and belief, the Dorset Defendants derived a direct financial benefit from this infringement, including, but not limited to, advertising, other revenue, or other financial benefits from the increased user traffic arising from the "draw" of Plaintiffs' copyrighted materials.

37. The Dorset Defendants' acts of infringement were willful, in disregard of and with indifference to the rights of Plaintiffs.

38. As a direct and proximate result of the infringements by the Defendants, Plaintiffs are entitled to damages in an amount to be proven at trial, but no less than $15 million, and to Defendants' profits in amounts to be proven at trial are not currently ascertainable. Alternatively, because the infringements were willful, continued infringement by the Dorset Defendants, Plaintiffs are entitled to maximum statutory damages of $150,000 for each copyright infringed, or in such other amount as may be proper under 17 U.S.C. § 504(c), in an amount to be proven at trial, but no less than $15 million.

39. Plaintiffs are further entitled to its attorney's fees and full costs pursuant to 17 U.S.C. § 505.

AS AND FOR A FOURTH CAUSE OF ACTION
(Violation of the CFAA)

40. Plaintiffs repeat and re-allege each and every allegation in the prior paragraphs with the

same force and effect as if fully alleged herein.

41. At all relevant times, the Facebook servers hosting the Bandha Yoga Page were "protected" computers for the purposes of 18 U.S.C. § 1030, pursuant to 18 U.S.C. § 1030(e)(2)(B). In May of 2015, the Dorset Defendants intentionally accessed the Facebook server(s) hosting the Bandha Yoga Page without authorization, or exceeding authorized access, and thereby obtained information in violation of Section 1030 (a)(2).

42. The access referred to in the prior paragraph was done by the Dorset Defendants knowingly with intent to defraud and, by means of such conduct, furthered the intended fraud by obtaining things of value including access to Plaintiffs' existing and prospective customers, the use of Plaintiffs' copyrighted materials, and other value, in amounts to be proven at trial, all in violation of Section 1030 (a)(4).

43. The Dorset Defendants knowingly caused the transmission of a program, information, code, or command and, as a result of such conduct, intentionally caused damage without authorization to one or more protected computers in violation of Section 1030 (a)(4).

44. As a result of the acts of the Dorset Defendants, Dr. Long and Bandha LLC have suffered damages in excess of $5,000 within a 1 year period, and on information and belief, damages were caused to 10 or more protected computers.

45. As a direct and proximate result of the wrongful conduct by the Dorset Defendants, Plaintiffs have suffered losses including the cost of responding to the offense, conducting a damage assessment, restoring the data, program, system, or information to its condition prior to the offense, revenue lost, cost incurred, or other consequential damages incurred because of interruption of service.

46. Plaintiffs are entitled to economic damages pursuant to 18 U.S.C. § 1030(g) in amounts to be proven at trial, but no less than $ 15 million.

AS AND FOR A FIFTH CAUSE OF ACTION
(Violation of the SCA)

47. Plaintiffs repeat and re-allege each and every allegation in the prior paragraphs with the same force and effect as if fully alleged herein.

48. Pursuant to the SCA, 18 U.S.C. § 2701 (a) with certain exceptions not relevant here, it is unlawful to (1) intentionally access without authorization a facility through which an electronic communication service is provided; or (2) intentionally exceed an authorization to access that facility; and thereby obtain, alters, or prevent authorized access to a wire or electronic communication while it is in electronic storage in such system.

49. During the eight-day window in which Dr. Long was locked out of his Facebook page, the Dorset Defendants continuously and intentionally accessed Dr. Long's Facebook page, continuously accessed and removed comments made by users of the page alerting visitors to the fact that the page had been hacked, that the person in charge of the page was not Dr. Long, and that downloading images would result in the unintentional installation of malicious malware.

50. During the eight-day window in which Dr. Long was locked out of his Facebook page, the Dorset Defendants continuously and intentionally obtained, and deleted or altered, electronic communications stored on the Bandha Yoga Page and prevented authorized access by Dr. Long to electronic communications on that page.

51. The violations of the SCA by the Dorset Defendants were committed with a knowing or intentional state of mind.

52. As a result of the foregoing, under 18 U.S.C. §2707, the Plaintiffs are entitled to the actual damages suffered by the Plaintiffs and any profits made by the Dorset Defendants as a result of the violation, in amounts to be proven at trial, but no less than $ 15 million, reasonable costs and attorneys' fees, and punitive damages against the Dorset Defendants of no less than $45 million. In no case are Plaintiffs entitled to less than the sum of $ 1,000 for each such violation, the costs of the action, together with reasonable attorney fees.

AS AND FOR A SIXTH CAUSE OF ACTION
(Violation of the CCDAFA)

53. Plaintiffs repeat and re-allege each and every allegation in the prior paragraphs with the same force and effect as if fully alleged herein.

54. In violation of California Penal Code Section 502(c), the Dorset Defendants:

(1) Knowingly accessed and without permission altered, damaged, deleted, destroyed, and otherwise used data, computer, computer system, or computer network in order to either (A) devise or execute any scheme or artifice to defraud, deceive, or extort, or (B) wrongfully control or obtain money, property, or data.

(2) Knowingly and without permission used or caused to be used computer services.

(3) Knowingly accessed and without permission added, altered, damaged, deleted, and destroyed data which resides or exists internal or external to a computer, computer system, or computer network.

(4) Knowingly and without permission disrupted or cause the disruption of computer services or denied or caused the denial of computer services to an authorized user of a computer, computer system, or computer network.

(5) Knowingly introduced a computer contaminant into computers, computer systems, or computer networks.

(6) Knowingly and without permission used the Internet domain name or profile of another individual, corporation, or entity in connection with the sending of one or more electronic mail messages or posts and thereby damaged or caused damage to a computer, computer data, computer system, or computer network.

(7) Knowingly and without permission accessed or caused to be accessed any computer, computer system, or computer network.

55. As a result of the foregoing, Plaintiffs have suffered losses including the cost of responding to the offense, conducting a damage assessment, restoring the data, program, system, or information to its condition prior to the offense, revenue lost, cost incurred, and other consequential damages incurred because of interruption of service. Plaintiffs are entitled to damages pursuant to California Penal Code Section 502(e) in amounts to be proven at trial, but no less than $ 15 million, and because the Dorset Defendants have been guilty of oppression, fraud, or malice, as defined in subdivision (c) of Section 3294 of the Civil Code, to punitive damages against the Dorset Defendants in the amount of no less than $45 million.

AS AND FOR A SEVENTH CAUSE OF ACTION
(Tortious Interference with Contractual Advantage)

56. Plaintiffs repeat and re-allege each and every allegation in the prior paragraphs with the same force and effect as if fully alleged herein.

57. Plaintiffs had valuable existing business relationships with many of the persons who visited the Bandha Yoga Page during the period when the Dorset Defendants hijacked and were in

control of the Bandha Yoga Page. On information and belief, the Dorset Defendants were aware that those relationships existed, intended to disturb them, and did disturb Plaintiffs' then existing relationships with some of those persons, which caused damage to the Plaintiffs.

58. As a result of the foregoing, Plaintiffs are entitled to damages in amounts to be proven at trial, but no less than $ 15 million.

AS AND FOR A EIGHTH CAUSE OF ACTION
(Tortious Interference with Prospective Advantage)

59. Plaintiffs repeat and reallege each and every allegation in the prior paragraphs with the same force and effect as if fully alleged herein.

60. Plaintiffs had valuable potential business relationships with many of the persons who visited the Bandha Yoga Page during the period when the Dorset hijacked and were in control of the Bandha Yoga Page. On information and belief the Dorset Defendants were aware of those prospective relationships, intended to disturb them, and did disturb Plaintiffs' then existing relationships with some of those persons by using unlawful and otherwise improper means causing damage to the Plaintiffs.

61. As a result of the foregoing, Plaintiffs are entitled to damages in amounts to be proven at trial that are not currently ascertainable, but no less than $ 15 million.

AS AND FOR AN NINTH CAUSE OF ACTION
(Conversion)

62. Plaintiffs repeat and realleged each and every allegation in the prior paragraphs with the same force and effect as if fully alleged herein.

63. Plaintiffs had valuable property rights in the Bandha Yoga Page and in Plaintiffs' intellectual property. The Dorset Defendants used and disposed of Plaintiffs' property in a manner inconsistent with Plaintiffs' property rights.

64. As a result of the foregoing, Plaintiffs are entitled to damages in amounts to be proven at trial that are not currently ascertainable, but no less than $ 15 million.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

1. On the First, Second, and Third Causes of Action against all Defendants for damages in an amount to be proven at trial, but no less than $15 million, and Defendants' profits in amounts to be proven at trial, which are not currently ascertainable. Alternatively, for statutory damages of $150,000 for each copyright infringed or in such other amount as may be proper under 17 U.S.C. § 504(c), an amount to be proven at trial, but no less than $15 million, and in either case for costs and reasonable attorneys' fees of this action.

2. On the Fourth Cause of Action, against all Defendants economic damages pursuant in amounts to be proven at trial, but no less than $ 15 million.

3. On the Fifth Cause of Action, against all Defendants the actual damages suffered by the Plaintiffs in amounts to be proven at trial, but no less than $ 15 million, reasonable costs and attorneys' fees, and against the Dorset Defendants for punitive damages of no less than $45 million.

4. On the Sixth Cause of Action, against all Defendants for damages suffered by the Plaintiffs in amounts to be proven at trial, but no less than $ 15 million, reasonable costs and attorneys' fees, and against the Dorset Defendants for punitive damages of no less than $45 million.

5. On the Seventh, Eighth, and Ninth Causes of Action, for damages in amounts to be proven at trial, but no less than $ 15 million.

6. Against all Defendants, for pre-judgment interest, costs, and for such other and further relief as this Court deems just.

Dated: New York, New York
May 12, 2017

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DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b) and Local Rule 3-6(a), Plaintiffs hereby demands a trial by jury.

Dated: New York, New York
May 12, 2017

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